III. REMARKS/ARGUMENTS

A. Status of the Application

Claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-138 are now pending. Claims 1-32, 34-39, 41-42, 48, 50-52, 56-57, 59-60, 63-64, 66-105, 107-109, 111-112, 122-124, 126-127 and 133 are cancelled. Claims 33, 58, 106, 117, 121 and 132 are amended. The amendments to claims 33, 58, 106, 117, 121 and 132 were made to enhance the Applicants' patent portfolio with claims of varying scope and no new matter has been added by the amendments presented herein. Claim 138 has been added.

Reconsideration of this application in light of the following remarks is respectfully requested.

B. Independent Claims

Claim 33 is drawn to a wellbore spacer composition comprising a zeolite, a polymeric viscosifier or fluid loss control agent and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is selected from the group consisting of clinoptilolite, analcime, bikitaite, brewsterite, chabazite, faujasite, harmotome, heulandite, laumontite, mesolite, natrolite, paulingite, phillipsite, scolecite, stellerite, stilbite, and thomsonite. The polymeric viscosifier or fluid loss control agent is present from about 1 to 3% by weight of dry materials and is selected from the group consisting of hydroxyethylcellulose, cellulose, carboxyethylcellulose, carboxymethylcellulose, carboxymethylhydroxyethylcellulose, hydroxypropylcellulose, methylhydroxypropylcellulose, methylcellulose, ethylcellulose, propylcellulose, ethylcarboxymethylcellulose, methylethylcellulose, hydroxypropylmethylcellulose, starch, guar gum, locust bean gum, tara, konjak, tamarind, karaya gum, welan gum, xanthan gum, galactomannan gums, succinoglycan gums, scleroglucan gums, tragacanth gum, arabic gum, ghatti gum, tamarind gum, carrageenan, carboxymethyl guar, hydroxypropyl guar, carboxymethylhydroxypropyl guar, polyacrylate, polymethacrylate, polyacrylamide, maleic anhydride, methylvinyl ether copolymers, polyvinyl alcohol, and polyvinylpyrrolidone.

Each of claims 40, 43-47, 49, 53-55, 58, 61-62, 65 and 135 depends directly or indirectly from claim 33, and therefore each includes at least the foregoing elements.

Claim 106 is drawn to a wellbore spacer composition comprising a zeolite, a dispersant and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is selected from clinoptilolite, analcime, bikitaite, brewsterite, chabazite, faujasite, harmotome, heulandite, laumontite, mesolite, natrolite, paulingite, phillipsite, scolecite, stellerite, stilbite and thomsonite. The dispersant is present from about 1 to 18% by weight of dry materials and is selected from sodium naphthalene sulfonate condensed with formaldehyde, sulfonated styrene maleic anhydride copolymer, sulfonated vinyltoluene maleic anhydride copolymer, sulfonated acetone condensed with formaldehyde, lignosulfonates and interpolymers of acrylic acid, allyloxybenzene sulfonate, allyl sulfonate and non-ionic monomers.

Each of claims 110, 113-120 and 136 depends directly or indirectly from claim 106, and therefore each includes at least the foregoing elements.

Claim 121 is drawn to a wellbore spacer composition that includes a zeolite, a surfactant and a carrier fluid. The zeolite is present from about 60 to 70% by weight of dry materials and is selected from clinoptilolite, analcime, bikitaite, brewsterite, chabazite, faujasite, harmotome, heulandite, laumontite, mesolite, natrolite, paulingite, phillipsite, scolecite, stellerite, stilbite and thomsonite. The surfactant is selected from:

(a) an ethoxylated alcohol ether sulfate of the formula:

$$H(CH_2)_a(OC_2H_4)_bOSO_3^-NH_4^+$$

wherein a is an integer in the range of from about 6 to about 10 and b is an integer in the range of from about 3 to about 10;

(b) a sodium salt of α-olefinic sulfonic acid which is a mixture of compounds of the formulas:

$$X[H(CH_2)_n—C=C—(CH_2)_mSO_3Na]$$

and

$$Y[H(CH_2)_p—COH—(CH_2)_qSO_3Na]$$

wherein:

n and m are individually integers in the range of from about 6 to about 16;

p and q are individually integers in the range of from about 7 to about 17; and

X and Y are fractions with the sum of X and Y being 1;

(c) a composition having the formula:

$$H(CH_2)_a(OC_2H_4)_3OSO_3Na$$

wherein:

a is an integer in the range of from about 6 to about 10;

(d) oxyalkylated sulfonate;

(e) an alcohol ether sulfonate of the formula:

$$H(CH_2)_a(OC_2H_4)_bSO_3NH_4^+$$

wherein:

a is an integer in the range of from about 6 to about 10; and

b is an integer in the range of from about 3 to about 10;

(f) cocoamine betaine;

(g) an alkyl or alkene amidopropyl betaine having the formula:

$$R—CONHCH_2CH_2CH_2N^+(CH_3)_2CH_2CO_2^-$$

wherein R is a radical selected from the group of decyl, cocoyl, lauryl, cetyl and oleyl; and

(h) an alkyl or alkene amidopropyl dimethylamine oxide surfactant having the formula:

$$R—CONHCH_2CH_2CH_2N^+(CH_3)_2O^-$$

wherein R is a radical selected from the group of decyl, cocoyl, lauryl, cetyl and oleyl.

Each of claims 125, 128-132, 134 and 137 depends directly or indirectly from claim 121, and therefore each includes at least the foregoing elements.

C. Rejection of Claims under 35 U.S.C. §102(b) over Kulprathipanja et al.

Claims 33, 43-44, 47, 55 and 135 stand rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 4,372,876 to Kulprathipanja et al. ("Kulprathipanja '876"). Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

As provided in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim ...". Kulprathipanja '876 fails to satisfy the requirements of MPEP § 2131 because Kulprathipanja '876 does not disclose each and every element of claims 33, 43-44, 47, 55 and 135.

As noted above, the wellbore spacer compositions of claims 33, 43-44, 47, 55 and 135 include a zeolite present from about 60 to 70% by weight of dry materials, a polymeric

viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials, and a carrier fluid.

Kulprathipanja '876 describes an adsorbent, such as fresh clay bound Ca-Y faujasite, that is made by mixing an uncoated precursor of the absorbent with an organic polymer (ethyl cellulose) dissolved in a liquid organic solvent (methyl ethyl ketone) and then removing the solvent. Kulprathipanja '876 discloses the tendency of the silicon constituent of the adsorbent to dissolve in the solution resulting in the undesirable disintegration of the adsorbent is reduced by coating the adsorbent with ethyl cellulose. The ethyl cellulose, however, is not a viscosifier or fluid loss control agent. In addition, Kulprathipanja '876 discloses that the zeolite is present in the adsorbent in an amount ranging from about 75 wt. % to about 98 wt. % (see Col. 8, lines 57-60). Kulprathipanja '876 also discloses in Example 1 that a sample was prepared by dissolving ethyl cellulose powder in methylethylketone to obtain a solution of about 3 wt.% ethylcellulose, then a fresh clay bound Ca-Y faujasite adsorbent was added to the solution in sufficient quantity so that the ethylcellulose comprised from about 2 to about 3 wt.% of the adsorbent plus the ethylcellulose on a dry basis (see Col. 14, lines 42-50). Thus, Kulprathipanja '876 clearly does not disclose or suggest a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials, a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials and a carrier fluid.

There is also no reason, motivation or suggestion for modifying the disclosure of Kulprathipanja '876 so as to provide a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials, a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials and a carrier fluid.

In view of the foregoing, Applicants submit that Kulprathipanja '876 fails to disclose each and every element of claim 33, and therefore the rejection of claim 33 under 35 U.S.C. §102(b) should be withdrawn. Applicants further submit that the rejection of claims 43-44, 47, 55 and 135 under 35 U.S.C. §102(b) should be withdrawn for at least the same reasons that apply to claim 33.

D. Rejection of Claims under 35 U.S.C. § 102(b) over Sirosita et al.

Claims 33, 40-45, 47, 49, 55, 58, 61, 65, 106, 110-116, 120 and 135-136 stand rejected under 35 U.S.C. §102(b) over U.S. Patent No. 4,986,989 to Sirosita et al. ("Sirosita '989"). As

noted above, claims 41-42 and 111-112 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

As provided in MPEP §2131, "[t]o anticipate a claim, the reference must teach every element of the claim ...". Sirosita '989 fails to satisfy the requirements of MPEP §2131 because Sirosita '989 does not disclose each and every element of claims 33, 40, 43-45, 47, 49, 55, 58, 61, 65, 106, 110, 113–116, 120 and 135-136.

As noted above, the wellbore spacer compositions of claims 33, 40, 43-45, 47, 49, 55, 58, 61, 65, 106, 110, 113-116, 120 and 135-136 include a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

Sirosita '989 describes an agricultural and horticultural fungicide that contains as an active ingredient at least one crystalline zeolite selected from the faujasite group, the chabazite group and the phillipsite group.

Contrary to claims 33 and 106, however, there is no disclosure, motivation or suggestion in Sirosita '989, for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

In view of the foregoing, Applicants submit that Sirosita '989 fails to disclose each and every element of claims 33 and 106, and therefore the rejection of claims 33 and 106 under 35 U.S.C. §102(b) should be withdrawn. Applicants further submit that the rejection of claims 40, 43-45, 47, 49, 55, 58, 61, 65, 110, 113-116, 120 and 135-136 under 35 U.S.C. §102(b) should be withdrawn for at least the same reasons that apply to claims 33 and 106.

E. Rejection of Claims under 35 U.S.C. §102(e) or 35 U.S.C. §103(a) over Ku

Claims 33, 41, 43, 44, 53-55 and 58 stand rejected under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2002/0117090 to Ku. ("Ku '090"). Claim 58 stands rejected under 35 U.S.C. §103(a) over Ku '090. Claims 33, 41-47, 53-55, 58, 106, 113-115, 117, 135 and 136 stand rejected under 35 U.S.C. §103(a) over Ku '090. As noted above, claims 41-42 have

been cancelled. Insofar as they may be applied against the present claims, these rejections are respectfully traversed.

In order to make a proper rejection under either 35 U.S.C. §102(e) or 35 U.S.C. §103(a), it is required that the cited reference disclose, motivate or suggest each and every element of the rejected claim. (See MPEP §2131 and MPEP §2142).

To sustain a rejection under 35 U.S.C. §103(a), MPEP §2142 further requires "some suggestion or motivation, either in the [reference itself] or in the knowledge generally available to one of ordinary skill in the art, to modify [or combine] the reference", and also that there be a "reasonable expectation of success."

In the present case, none of the criteria for sustaining a rejection over Ku '090 under either 35 U.S.C. §102(e) or 35 U.S.C. §103(a), have been satisfied with respect to any of claims 33, 43-47, 53-55, 58, 106, 113-115, 117 and 135.

As noted above, the wellbore spacer compositions of claims 33, 43-47, 53-55, 58, 106, 113-115, 117 and 135 include a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

Ku '090 discloses a concrete formulation for use in the construction of buildings, in which zeolite replaces at least a part of the cement that would have been used to form the concrete. (col. 1, paras. [0001], [0017]). The Examples set forth in paragraphs [0038] and [0039] of Ku '090 include a dry mix of cement, Y-zeolite, sand and dispersant (SNF), in which the dry mix includes at most 2.85% by weight of the Y-zeolite and at most 0.2% by weight of the dispersant.

Contrary to claims 33 and 106, however, there is no disclosure, motivation or suggestion in Ku '090 for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

In view of the foregoing, Applicants respectfully submit that Ku '090 fails to disclose each and every element of claims 33 and 106, and therefore a required element of both a rejection under 35 U.S.C. §102(e) and a rejection under 35 U.S.C. §103(a) has not been met.

Further, there is no suggestion, motivation or reason for the modification of the Ku '090 disclosure so as to provide a downhole wellbore spacer composition as recited in claims 33 and 106. Neither Ku '090 nor the current Office Action describes how a person of ordinary skill in the art could be motivated to modify the disclosure of Ku '090 to provide a downhole wellbore spacer composition as recited in claims 33 and 106. Further, there could be no reasonable expectation of success of providing such a downhole wellbore spacer composition from the disclosure of Ku '090 for at least the reason that there is no reason, suggestion or motivation for modification of the disclosure of Ku '090. Moreover, a reasonable expectation of success or a reason for modifying the concrete formulation as described by Ku '090 to provide a downhole wellbore spacer composition as recited in claims 33 and 106 has not been provided. Accordingly, Applicants submit that Ku '090 fails to satisfy the remaining requirements of a rejection of claims 33 and 106 under 35 U.S.C. §103(a).

In view of the foregoing, Applicants respectfully submit that none of the criteria for sustaining a rejection under either 35 U.S.C. §102(e) or 35 U.S.C. §103(a) have been satisfied with respect to claim 33 and 106. Moreover, none of the criteria for sustaining a rejection under either 35 U.S.C. §102(e) or 35 U.S.C. §103(a) have been satisfied with respect to claims 43-47, 53-55, 58, 113-115, 117 and 135 for at least the same reasons that apply to claims 33 and 106. For the foregoing reasons, Applicants submit that the rejection of claims 33, 43-47, 53-55, 58, 106, 113-115, 117 and 135 under 35 U.S.C. § 102(e) or 35 U.S.C. §103(a) over Ku '090 should be withdrawn.

F. Rejection of Claims under 35 U.S.C. §103(a) over Chaux '734

Claims 33, 40-47, 49, 53-55, 58, 61-62, 65, 106, 110-121, 125-132 and 134-137 stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,548,734 to Chaux ("Chaux '734). As noted above, claims 41-42, 111-112 and 126-127 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

In order to make a proper rejection under 35 U.S.C. §103(a), it is required that the cited reference disclose, motivate or suggest each and every element of the rejected claims. (See MPEP §2142). MPEP §2142 further requires "some suggestion or motivation, either in the [reference itself] or in the knowledge generally available to one of ordinary skill in the art, to modify [or combine] the reference", and also that there be a "reasonable expectation of success."

In the present case, none of the criteria for sustaining a rejection over Chaux '734 under 35 U.S.C. §103(a), have been satisfied with respect to any of claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-137.

As noted above, the downhole wellbore spacer compositions of claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-137 include a zeolite present from about 60 to 70% by weight of dry materials. In the case of the downhole wellbore spacer compositions of claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 113-120 and 135-136, the composition further includes either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials. In the case of the downhole wellbore spacer compositions of claims 121, 125, 128-132 and 137, the downhole wellbore spacer compositions further include a surfactant.

Chaux '734 discloses a composition that includes a water soluble gum or polymer, a water donor material and optionally an anionic or nonionic surfactant (column 8, lines 37-44). According to Chaux '734 the water donor material, which can be a zeolite, is impregnated with water and the water-impregnated water donor material is mixed in a dry state with the gum and optionally the anionic or nonionic surfactant (column 11, lines 56-68). Chaux '734 also discloses that the "dry materials" include 30 to 70% by weight of the water soluble gum, 7 to 40% by weight of the water donor, and 0 to 10% by weight of the anionic or nonionic surfactant.

Contrary to claims 33, 106 and 121, however, there is no disclosure, motivation or suggestion in Chaux '734 for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or a dispersant present from about 1 to 18% by weight of dry materials, or (b) a surfactant.

In view of the foregoing, Applicants respectfully submit that Chaux '734 fails to disclose each and every element of claims 33, 106 and 121, and therefore a required element of a rejection under 35 U.S.C. §103(a) has not been met.

Further, there is no reason, suggestion or motivation for the modification of Chaux '734 so as to provide a downhole wellbore spacer composition as recited in any of claims 33, 106 or 121. Neither Chaux '734 nor the current Office Action describes how a person of ordinary skill in the art could be motivated to modify the disclosure of Chaux '734 to provide a downhole

wellbore spacer composition as recited in any of claims 33, 106 or 121. Further, there could be no reasonable expectation of success of providing such a downhole wellbore spacer composition from the disclosure of Chaux '734 for at least the reason that there is no reason, suggestion or motivation for modification of the disclosure of Chaux '734. Moreover, a reasonable expectation of success for modifying the formulation as described by Chaux '734 to provide a downhole wellbore spacer composition as recited in any of claims 33, 106 or 121 has not been provided. Accordingly, Applicants submit that Chaux '734 fails to satisfy the remaining requirements of a rejection of claim 33, 106 or 121 under 35 U.S.C. §103(a).

In view of the foregoing, Applicants respectfully submit that none of the criteria for sustaining a rejection under 35 U.S.C. §103(a) have been satisfied with respect to claims 33, 106, or 121. Moreover, none of the criteria for sustaining a rejection under 35 U.S.C. §103(a) have been satisfied with respect to claims 40, 43-47, 49, 53-55, 58, 61-62, 65, 110, 113-120, 125, 128-132 and 134-137 for at least the same reasons that apply to claims 33, 106 and 121. For the foregoing reasons, Applicants submit that the rejection of claims 33, 40, 43-47, 49, 53-55, 58, 61-62, 65, 106, 110, 113-121, 125, 128-132 and 134-137 under 35 U.S.C. §103(a) over Chaux '734 should be withdrawn.

G. Obviousness-type Double Patenting Rejection over U.S. Patent No. 7,147,067

Claims 33, 40-47, 49, 53-55, 58, 106, 110-117, 120, 135 and 136 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-43 of U.S. Patent No. 7,147,067 ("the '067 Patent"). As noted above, claims 41-42 and 111-112 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

As noted above, the downhole wellbore spacer compositions of claims 33, 43-47, 49, 53-55, 58, 106, 110, 113-117, 120 and 135-136 include a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

Claims 1-36 of the '067 Patent are directed to methods of performing drilling operations including circulating a drilling fluid composition and claims 37-43 of the '067 Patent are directed

to methods of performing drilling operations including drilling a wellbore penetrating a subterranean zone with drilling fluid.

Contrary to claims 33, 43-47, 49, 53-55, 58, 106, 110, 113-117, 120 and 135-136 of this application, there is no disclosure, motivation or suggestion in any of claims 1-43 of the '067 Patent for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

There is also no disclosure, reason, motivation or suggestion in the '067 Patent for modifying the drilling fluid composition used in the methods recited in claims 1-43 of the '067 Patent to correspond to a downhole wellbore spacer composition as required by claims 33, 43-47, 49, 53-55, 58, 106, 110, 113-117, 120 and 135-136.

In view of the foregoing, Applicants respectfully request that the obviousness-type double patenting rejection of claims 33, 43-47, 49, 53-55, 58, 106, 110, 113-117, 120 and 135-136 over claims 1-43 of the '067 Patent be withdrawn.

H. Obviousness-type Double Patenting Rejection over Application No. 11/126,626

Claims 33, 40-44, 49, 53-55 and 135 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18, 21-28 and 39-42 of copending Application No. 11/126,626 ("the '626 application"). As noted above, claims 41-42 have been cancelled. Insofar as it may be applied against the pending claims, this rejection is respectfully traversed.

In the event that the Examiner maintains the provisional obviousness-type double patenting rejection in this application, Applicants request that at such time that the provisional obviousness-type double patenting rejection is the only rejection remaining in this application, that the Examiner follow the direction provided in MPEP § 804. MPEP § 804, p. 800-17.

As noted above, the downhole wellbore spacer compositions of claims 33, 43-44, 49, 53-55 and 135 include a zeolite present from about 60 to 70% by weight of dry materials and a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials.

Claims 1-18 and 39-40 of the '626 application are directed to wellbore sealing low density foamed cement compositions that include at least one cementitious material, zeolite, a mixing fluid and at least one of a foaming agent, a surfactant and air. Claims 21-28 and 41-42 of the '626 application are directed to lightweight cement compositions that include at least one cementitious material, zeolite, and a mixing fluid.

Contrary to claims 33, 43-44, 49, 53-55 and 135 of the present application, there is no disclosure, motivation or suggestion in any of claims 1-18, 21-28 and 39-42 of the '626 application for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials.

There is also no disclosure, motivation or suggestion in the '626 application for modifying the cementing composition recited in claims 1-18, 21-28 and 39-42 of the '626 application to correspond to a downhole wellbore spacer composition as described in claims 33, 43-44, 49, 53-55 and 135.

In view of the foregoing, Applicants respectfully request that the provisional obviousness-type double patenting rejection of claims 33, 43-44, 49, 53-55 and 135 over claims 1-18, 21-28 and 39-42 of the '626 application be withdrawn.

I. Obviousness-type Double Patenting Rejection over Application No. 11/270,307

Claims 33, 40-46, 53-55, 58, 65, 106, 110-114, 117, 120 and 135-136 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of copending Application No. 11/270,307 ("the '307 application"). As noted above, claims 41-42 and 111-112 have been cancelled. Insofar as it may be applied against the present claims, this rejection is respectfully traversed.

In the event that the Examiner maintains the provisional obviousness-type double patenting rejection in this application, Applicants request that at such time that the provisional obviousness-type double patenting rejection is the only rejection remaining in this application, that the Examiner follow the direction provided in MPEP § 804. MPEP § 804, p. 800-17.

As noted above, the downhole wellbore spacer compositions of claims 33, 43-46, 53-55, 58, 65, 106, 113-114, 117, 120 and 135-136 include a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present

from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

Claims 1-32 of the '307 application are directed to methods of performing cementing operations including circulating a drilling fluid composition and mixing a cementitious material with an amount of the drilling fluid to form a cementing composition as well as to cementing compositions that include a cementitious material and a drilling fluid.

Contrary to the subject matter of claims 33, 43-46, 53-55, 58, 65, 106, 113-114, 117, 120 and 135-136 of this application, there is no disclosure, motivation or suggestion in any of claims 1-32 of the '307 application for a downhole wellbore spacer composition that includes a zeolite present from about 60 to 70% by weight of dry materials and either (a) a polymeric viscosifier or fluid loss control agent present from about 1 to 3% by weight of dry materials or (b) a dispersant present from about 1 to 18% by weight of dry materials.

There is also no disclosure, motivation or suggestion in the '307 application for modifying the cementing compositions recited in claims 1-32 of the '307 application to correspond to a downhole wellbore spacer composition as described in claims 33, 43-46, 53-55, 58, 65, 106, 113-114, 117, 120 and 135-136.

In view of the foregoing, Applicants respectfully request that the provisional obviousness-type double patenting rejection of claims 33, 43-46, 53-55, 58, 65, 106, 113-114, 117, 120 and 135-136 over claims 1-32 of the '307 application be withdrawn.

J. New Claim 138

New claim 138 has been added. Claim 138 is directed to a system for treating a wellbore, that includes first and second fluids disposed in the wellbore wherein the first and second fluids are incompatible with each other. The system also includes a wellbore spacer fluid disposed in the wellbore between the first fluid and the second fluid that prevents contact between the first fluid and the second fluids. The wellbore spacer fluid includes a zeolite selected from the group consisting of clinoptilolite, analcime, bikitaite, brewsterite, chabazite, faujasite, harmotome, heulandite, laumontite, mesolite, natrolite, paulingite, phillipsite, scolecite, stellerite, stilbite, and thomsonite, a polymeric viscosifier or fluid loss control agent selected from the group consisting of hydroxyethylcellulose, cellulose, carboxyethylcellulose, carboxymethylcellulose,

carboxymethylhydroxyethylcellulose, hydroxypropylcellulose, methylhydroxypropylcellulose, methylcellulose, ethylcellulose, propylcellulose, ethylcarboxymethylcellulose, methylethylcellulose, hydroxypropylmethylcellulose, starch, guar gum, locust bean gum, tara, konjak, tamarind, karaya gum, welan gum, xanthan gum, galactomannan gums, succinoglycan gums, scleroglucan gums, tragacanth gum, arabic gum, ghatti gum, tamarind gum, carrageenan, carboxymethyl guar, hydroxypropyl guar, carboxymethylhydroxypropyl guar, polyacrylate, polymethacrylate, polyacrylamide, maleic anhydride, methylvinyl ether copolymers, polyvinyl alcohol, and polyvinylpyrrolidone, and a carrier fluid.

It is respectfully submitted that the references of record clearly do not disclose or suggest the system of claim 138.

K. Conclusion

Claims 33, 43-47, 49, 53-55, 58, 61-62, 65, 106, 113-121, 125, 128-132 and 134-138 are now pending. In view of the foregoing remarks, allowance of claims 33, 43-47, 49, 53-55, 58, 61-62, 65, 106, 113-121, 125, 128-132 and 134-138 is respectfully requested. The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

Date: 25 July 2007

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